

BEFORE THE  
Federal Communications Commission  
WASHINGTON, D.C.

JUN 10 1999

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Implementation of the Local Competition	)	CC Docket No. 96-98
Provisions in the Telecommunications Act	)	
of 1996	)	
	)	
Interconnection between Local Exchange	)	CC Docket No. 95-185
Carriers and Commercial Mobile Radio	)	
Service Providers	)	

REPLY COMMENTS OF TELIGENT, INC.

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June 10, 1999

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**REPLY COMMENTS OF TELIGENT, INC.**

Teligent, Inc. ("Teligent") hereby submits its Reply Comments in the above-captioned proceeding.<sup>1</sup>

**I. INTRODUCTION**

In its initial comments, Teligent, while incorporating by reference certain portions of the comments of the Association for Local Telecommunications Services ("ALTS") concerning the definition and standards for "necessary and impair," limited its discussion to the issue of intra-building wire as a new UNE. These reply comments similarly will address this issue as well as a few additional noteworthy points raised in the comments of other parties.

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<sup>1</sup> Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers, CC Docket Nos. 96-98 and 95-185, *Second Further Notice of Proposed Rulemaking*, FCC 99-70 (rel. April 16, 1999) ("Second FNPRM").

**II. THE COMMISSION SHOULD IDENTIFY INTRA-BUILDING WIRING AS A NEW UNBUNDLED NETWORK ELEMENT.**

In their comments, State Public Utility Commissions and competitive carriers alike shared the views expressed by Teligent that unbundled access to the ILEC's intra-building wiring is critical to the development of telecommunications competition.<sup>2</sup> Moreover, these entities explained how the unbundled intra-building wiring satisfies the necessary and impair standard.<sup>3</sup> The Commission has been presented with a more than adequate basis to identify intra-MTE wiring as a network element that ILECs must offer on an unbundled basis pursuant to Section 251(c) (3).<sup>4</sup>

GTE's comments raise the only extensive opposition to identifying intra-MTE wiring as an unbundled network element. However, GTE's opposition rests entirely on the assumption that it is the wire on the customer's side of the demarcation point to

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<sup>2</sup> See Comments of Allegiance Telecom, Inc. at 17; Association for Local Telecommunications Services at 70-72; AT&T Corp. at 84-85; Cable & Wireless USA, Inc. at 34-35; Choice One Communications, Inc., et al. at 23-25; Competition Policy Institute at 17; Competitive Telecommunications Association at 36; CoreComm Limited at 35-36; e.spire Communications, Inc. and Intermedia Communications Inc. at 27; KMC Telecom Inc. at 22-23; Level 3 Communications, Inc. at 20-22; MCI WorldCom, Inc. at 48; MediaOne Group, Inc. at 16-17; MGC Communications, Inc. at 19-20, 28-30; NEXTLINK Communications, Inc. at 36-37; OpTel, Inc., passim; Public Utilities Commission of Ohio at 19-20; RCN Telecom Services, Inc. at 21-22; Washington Utilities and Transportation Commission at 17; and WinStar Communications, Inc., passim.

<sup>3</sup> See, e.g., Comments of Association for Local Telecommunications Services at 70-72; e.spire Communications, Inc. and Intermedia Communications, Inc.; and MGC Communications at 29.

<sup>4</sup> 47 U.S.C. § 251(c) (3).

which CLECs require access. To the contrary, Teligent seeks unbundled access to ILEC intra-building wiring from its entry into the building to the demarcation point(s). Teligent's position is consistent with GTE's statement that "the ILEC's network facilities end at the demarcation point [and] any facilities on the customer's side of that point are not part of the ILEC network."<sup>5</sup>

As Teligent explained in its comments, that portion of the intra-building wiring between the building entrance and the demarcation point(s) is typically controlled by the ILEC. Where CLECs have the ability to bring their own facilities to a multi-tenant building entrance, they must be given some option of reaching the customers therein without the necessity of rewiring the entire building. By providing unbundled access to that portion of the intra-building wiring, the Commission will provide that alternative.<sup>6</sup> In doing so, the Commission will facilitate the provision of facilities-based alternatives to building

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<sup>5</sup> GTE Comments at 89.

<sup>6</sup> Teligent applauds the Commission's action today in the context of the Competitive Networks item recognizing that CLEC access to intra-building wiring is a critical issue influencing the development of facilities-based local competition. See "FCC Initiates Proceeding To Promote Development Of Competitive Networks," FCC News Release (June 10, 1999). The Commission's action today reflects an understanding of what Teligent and others have urged the Commission to recognize in this proceeding: that unbundled access to intra-building wiring is essential to the facilities-based provision of competitive telecommunications services.

tenants. Indeed, GTE's comments offer no argument against this proposal.

Moreover, as Teligent indicated in its comments, the Commission has the jurisdiction to provide CLEC access to wiring in multi-tenant buildings that runs between the demarcation point and the customer premises. To the extent that this wiring is not owned by the ILEC, however, the provision of CLEC access to it is best accomplished through a mechanism other than the Section 251(c)(3) UNE process.

On a related matter, SBC asserts that the NID should not be treated as an independent UNE, offering instead to provide it as part of the loop UNE on a voluntary basis.<sup>7</sup> If the NID is made available only as part of a loop, it will unnecessarily raise the costs of facilities-based providers. Namely, if a facilities-based CLEC constructs its own loops to a building, it must nevertheless lease the entire ILEC loop in order to have access to the building's NID. It is far more economical and efficient for CLECs to connect with the building's wiring through a single NID. When a CLEC signs up a customer in a building, it then would undertake the more cost-effective and technically simple process of replacing the ILEC's loop wiring with its own loop wiring on the cross-connect. If the customer returns to the ILEC, the process need only be reversed. Consequently, the Commission should retain the NID as its own UNE and should not

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<sup>7</sup> SBC Comments at 33.

permit ILECs to require that an entire loop be leased in order to gain access to the NID.

Finally, the Iowa Utilities Board suggests "includ[ing] the network interface device in the loop and leav[ing] subloop unbundling issues for the state commissions to sort out consistent with local competitive needs."<sup>8</sup> Teligent's own experience demonstrates that the need for access to ILEC NIDs and intra-MTE wiring exists nationwide wherever facilities-based competitive entry is occurring. Teligent explained in its comments that some States already require ILECs to provide unbundled access to their intra-building wiring. However, most States do not fall in this category. It is precisely these inconsistent and varied policies with respect to intra-building wiring access that must be remedied by a nationwide FCC approach.

In advocating a nationwide approach, however, Teligent does not deny that States have a critical role to play in ensuring the unbundled availability of intra-building wiring for CLECs. The FCC should encourage States to establish cost-based rates for this element. Indeed, the costs of providing intra-building wiring on an unbundled basis may be very low in States where the ILEC has already depreciated much of that plant. The States are in an ideal position to determine the status of intra-building wiring costs.

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<sup>8</sup> Iowa Utilities Board Comments at 9.

**III. OS/DA MUST REMAIN AN UNBUNDLED NETWORK ELEMENT, AT LEAST FOR THE NEAR TERM.**

In their comments, numerous parties expressed the view that operator services and directory assistance ("OS/DA") must remain a UNE at this time.<sup>9</sup> Those arguing that it no longer need be included on the Commission's list cite alternatives which they assert are readily available substitutes.<sup>10</sup> The mere presence of alternative sources of OS/DA is insufficient as a basis for eliminating this element from the ILEC UNE requirements. Teligent continually explores alternative sources of OS/DA.

It has been Teligent's experience that current alternatives to ILEC-provided OS/DA services are either prohibitively more expensive than ILEC OS/DA services or, if competitive in price, offer substantially inferior quality to the point of being an unreliable alternative. For example, ILECs are better able to handle 0- emergency calls over their OS/DA systems than are alternative providers.

Under the standards proposed by ALTS, and adopted by Teligent in its comments, current OS/DA alternatives are not interchangeable with ILEC offerings.<sup>11</sup> The absence of OS/DA as a UNE would impair the ability of CLECs to provide comparable

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<sup>9</sup> See, e.g., Comments of Allegiance Telecom, Inc. at 22-24; AT&T Corp. at 16; MCI WorldCom, Inc. at 70-74; and Qwest Communications Corp. at 87-88.

<sup>10</sup> See, e.g., Comments of Ameritech at 109-110; Bell Atlantic at 34-35; SBC Communications, Inc. at 61; and U S WEST at 55-56.

<sup>11</sup> See ALTS Comments at 25-31.



telecommunications services to their customers at this time. Alternatives either involve a material decrease in quality, a material increase in cost, a limitation in the scope of their availability, or a substantial delay in provisioning when compared with unbundled ILEC OS/DA offerings.

The absence of interchangeable OS/DA substitutes is not surprising. As Allegiance Telecom accurately explained in its comments, "[t]he incumbent LEC continues to have the vast majority of the subscriber lines, and therefore is the primary source of the vast majority of data for all other vendors of OS/DA databases."<sup>12</sup> As MCI similarly noted, "[a]ccurate and complete DA databases are not available from other sources. Other sources must rely on old ILEC white pages listings, which quickly become dated and error-riddled. Data from non-ILEC sources tend to have twice as many inaccuracies, as well as being far less complete."<sup>13</sup>

While OS/DA alternatives are beginning to become available, at this time, there are no comparable substitutes for ILEC-provided OS/DA. While Teligent believes that after a period of a few years, this element may become sufficiently available on a comparable basis to warrant removal from the UNE list, that time has not yet arrived. Accordingly, the Commission should avoid prematurely removing ILEC OS/DA from the reach of CLECs and

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<sup>12</sup> Allegiance Telecom Comments at 23.

<sup>13</sup> MCI WorldCom Comments at 72.

should retain the requirement that ILECs provide OS/DA on an unbundled basis as a network element.

**IV. GTE'S REPRESENTATIVE MARKET CHART CONTAINS INACCURACIES WITH RESPECT TO TELIGENT.**

At page 36 of its comments, GTE presents a chart purporting to demonstrate the numerous examples of CLEC self-provisioning to support the position that certain UNEs are no longer necessary. Teligent is included in that chart and notes that certain of the information presented by GTE, with respect to Teligent, is incorrect. For example, GTE asserts that Teligent self-provisions OS/DA in some or all markets.<sup>14</sup> This is entirely untrue. Although Teligent may not rely on GTE for OS/DA in all GTE markets, Teligent does rely entirely on ILEC-provided OS/DA in all markets in which it provides service. Moreover, GTE claims that Teligent self-provides OSS.<sup>15</sup> Again, this assertion is false. Teligent relies on ILEC-provided OSS for ordering and trouble reporting in all markets in which it provides service. To the extent that electronic ILEC-OSS systems are not yet available, Teligent resorts to manual ordering with the ILEC.

Teligent does not have information concerning the accuracy of GTE's claims with respect to other CLECs. However, given that GTE's chart misrepresented Teligent's operations, the credibility of all of GTE's empirical claims are called into doubt. For this reason, Teligent strongly urges the Commission not to rely upon

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<sup>14</sup> GTE Comments at 36.

<sup>15</sup> Id.

GTE's empirical claims without independent confirmation of the assertions that it makes.


**V. CONCLUSION**

For the foregoing reasons, Teligent strongly urges the Commission to identify intra-MTE wiring as a network element that ILECs must offer on an unbundled basis and to maintain ILEC OS/DA as a UNE under Section 251(c)(3).

Respectfully submitted,

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Dated: June 10, 1999